



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,978	10/20/2004	Yoshiyuki Kato	04734/LH	8929
1933 7590 02/27/2008 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708			EXAMINER MEYERS, JAMES A	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 02/27/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/511,978

Applicant(s)

KATO, YOSHIYUKI

Examiner

James A. Meyers

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) ~~the date~~ in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☒ Newly proposed or amended claim(s) 20-23 and 33 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 20-23 and 33.

Claim(s) objected to: _____.

Claim(s) rejected: 24, 25, 27-30 and 34-38.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: the remarks have not overcome all current rejections.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☒ Other: PTO - 892

Response to Arguments

1. Applicant's arguments, see pages 13-16, filed January 2, 2008, with respect to claims 20 and 33 have been fully considered and are persuasive. The rejection of claims 20-23 and 33 has been withdrawn.
2. Applicant's arguments, see pages 16-28, filed January 2, 2008, with respect to claims 24, 25, 27, 29 and 34-38, have been fully considered but they are not persuasive.
3. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
4. In response to the argument that Biegelsen does not disclose that a transmitting position of an optical signal in the object image is detected, Biegelsen clearly discloses the use of cameras which are capable of detecting visible and infrared light (page 3, paragraph 57). Biegelsen goes on to explain that electronics separate the video signal and the LED signal. Therefore, it is clear that the transmitting position of the optical signal in the object image is detected. If the transmitting position of the optical signal was not in the object image, there would be no need to separate the two signals, as they would already be independent.
5. In response to the argument that Biegelsen does not disclose an area of the object image based on changes in the transmitting position, Biegelsen clearly discloses

designating an area (i.e. the display screen) in the object image and goes on to disclose that the specifically designated area can then be used in additional displays (page 5, paragraph 73).

6. In response to the argument that Biegelsen does not disclose recognizing a moving pattern of the transmitting source of the optical signal and executing a control operation based on that pattern, Biegelsen discloses several moving patterns which can be executed by the transmitting source of the optical signal which result in control operations being performed (page 5, paragraphs 73 and 74).

7. In response to the argument that the combination of Biegelsen and Hiramatsu does not disclose setting a focus detection area and executing an exposure control operation based upon the area, Biegelsen clearly discloses designating an area (i.e. the display screen) in the object image, which is then used to perform focus control (page 5, paragraph 73). Additionally, Hiramatsu discloses performing exposure control operations based on movement in a given area of the image (page 2, paragraph 58-59). Therefore it would have been obvious to one having ordinary skill in the art at the time of invention that exposure control in addition to focus control could be performed in the area designated by Biegelsen. One would have been motivated to do so to ensure that image quality was not degraded when the optical signal was in motion (i.e. reduce blur when the camera is tracking a moving object) as desired by Miramatsu.

8. In response to the argument that the combination of Biegelsen and Mitsushige does not disclose setting a color evaluation area and executing a white balance control operation, Biegelsen clearly discloses designating an area (i.e. the display screen) in

the object image, which is then used to perform focus control (page 5, paragraph 73). Additionally, Mitsushige discloses executing a white balance control operation across the entire image (page 7, paragraph 43). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention such a white balance control operation could be performed in the area designated by Biegelsen. One would have been motivated to do so to ensure that the subject of the image was appropriately white balanced, which would ensure a natural looking image as desired by Biegelsen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Meyers whose telephone number is (571) 270-1690. The examiner can normally be reached on Mon-Fri 10AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/511,978
Art Unit: 2622

Page 5

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

2/7/2008
JM



NGOC YEN VU
SUPERVISORY PATENT EXAMINER